



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD) No.9512 of 2019

and

W.M.P.(MD) No.7493 of 2019

Raja Mohammed

... Petitioner

vs.

1) The Special District Revenue Officer,
(Land Acquisition- National Highways)
Office of the District Collector,
Ramanathapuram.

2) The District Revenue Officer,
Sivagangai District,
Sivagangai.

3) Sumathi

4) The Project Director,
National Highways Authority of India,
Karaikudi,
Sivagangai District.

... Respondents

** R4 is impleaded vide court order dated 09.07.2019 in W.M.P.(MD) No.7696 of 2019 in W.P.(MD) No.9512 of 2019.*

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus forbearing the 1st respondent from proceeding with the land acquisition proceedings in respect of the properties in Survey No.184/2A1, Kannakottai group, Devakottai Taluk, Sivagangai District in view of the patta proceedings pending before the 2nd respondent in Na.Ka.P4-25015-18 dated 01.02.2019 by considering the petitioner's representation dated 10.04.2019.

For Petitioner: M/s. P.Krishnaveni

For RR 1 & 2 : M/s.Vaishnavi,
Government Advocate

For R3 : Mr.S.Bageerathan

For R4 : Mr.C.Arul Vadivel Sekar



O R D E R

The prayer sought for in this Writ Petition is for the issuance of Mandamus to forbear the 1st respondent from proceeding with the land acquisition proceedings in respect of the properties in view of the patta proceedings pending before the 2nd respondent by considering the petitioner's representation dated 10.04.2019.

2. Heard M/s.Vaishnavi, learned Government Advocate appearing for the official respondents 1 & 2, Mr.S.Bageerathan, learned counsel for the third respondent and Mr.C.Arul Vadivel Sekar, learned counsel appearing for the fourth respondent.

3. In respect of the land at S.No No.184/2A1, Kannakottai group, Devakottai Taluk, Sivagangai District, there has been a land acquisition proceeding, under which it was concluded by awarding compensation and in respect of paying the said compensation, now, the dispute arose between the petitioner and the third respondent, as both claimed title over the property and in this regard, it is the case of the writ petitioner that he has made an appeal before the District Revenue Officer (i.e.) the second respondent to conduct enquiry and rectify the mistake claimed to have been crept in the UDR - survey and patta in respect of the subject land and in this regard, it seems that on 01.02.2019, the second respondent District Revenue Officer issued a notice for enquiry to both the petitioner as well as the third respondent and pursuant to which, an enquiry had been conducted.

4. According to the learned Government Advocate appearing for the official respondents 1 & 2, by relying upon the latest proceedings dated 18.07.2019, that the proceedings pending before the District Revenue Officer, (i.e.) the second respondent herein, will take some time to decide the same and therefore, a reasonable time is sought for, on behalf of the learned counsel for the official respondents 1 & 2.

5. However, the learned counsel appearing for the third respondent submitted that he already produced the documents of nearly five decades, pertaining to the subject land, as he purchased the land in the year 2005 from the vendor, who can trace the title for nearly about 50 years and therefore, its a clear case where the property in question belongs to the third respondent. Hence, there is no need to have any enquiry by the second respondent and in the name of pendency of enquiry, the compensation award in favour of the third respondent need not be detained or curtailed.

6. However, the learned counsel for the petitioner would submit that the mistake committed during the UDR survey cannot be taken as an advantage by the third respondent and that is the reason why



appeal has been preferred before the District Revenue Officer. Therefore, the second respondent shall decide the issue after hearing both the petitioner as well as the third respondent, within a reasonable time and once the District Revenue Officer decides the issue, based on which both the parties can act upon, and in this regard, if there are any grievances between the petitioner and the third respondent, they can agitate the issue in the manner known to law.

7. I have considered the above said submissions made by the learned counsel appearing for both the parties and I have perused the materials placed before this Court.

8. The fact remains that there has been a dispute between the petitioner and the third respondent, claiming ownership over the property and the petitioner's case is that, in UDR survey, there has been a mistake occurred and therefore, that has to be rectified by the District Revenue Officer and that is why appeal is filed before the second respondent, which is pending enquiry.

9. On the other hand, it is the case of the third respondent that, he purchased the land in question from its erstwhile owner in the year 2005. Therefore, it is a clear title based on which enquiry was conducted by the Land Acquisition Authorities and award has been passed in her favour. Therefore, the award amount has to be given to the third respondent.

10. It is the stand of the first and second respondent that the appeal given by the petitioner has been entertained by the second respondent and notices have been issued to both the parties and enquiry is still pending. Once the enquiry is completed, final orders would be passed by the second respondent and based on which, further decision can be taken, as to who is entitled to get the compensation award amount out of the land acquisition proceedings.

11. In view of the aforesaid stand taken by the respective parties through the learned counsel appearing before this Court, this Court is of the view that, since the appeal is pending before the second respondent District Revenue Officer, and he seeks some reasonable time to decide the same and once the District Revenue Officer decides it upon the limited scope, as to whether any mistake committed under UDR survey in respect of the subject land, and thereafter, based on which the parties can claim their right of getting compensation under the land acquisition proceedings. The present move made by the petitioner to stall the payment of compensation to the third respondent for the time being can be accepted.

12. In that view of the matter, this Court is inclined to dispose of the writ petition with the following direction:

<https://hcservices.ecourts.gov.in/hcservices> the second respondent shall complete the



enquiry, which is pending before him in respect of the subject land between the petitioner and the third respondent and pass final orders thereon within a period of six(06) weeks from the date of receipt of a copy of this order;

(ii) Once such an order is passed, depending upon the outcome of the order to be passed by the second respondent, the right of the parties (i.e.) the petitioner as well as the third respondent, in succeeding to get the compensation award amount under the land acquisition proceedings can be decided and based on the same, they can get the benefit thereafter; and

(iii) In order to enable the second respondent/ District Revenue Officer to decide the issue within the time frame stipulated, if the second respondent gives any notice for further enquiry to the parties, (i.e.) petitioner and the third respondent, they shall appear before the second respondent / District Revenue Officer with full cooperation to complete the enquiry within the time frame.

13. Till such decision is taken by the second respondent/ District Revenue Officer as indicated above, the award amount in respect of the subject land shall not be disbursed by the respondent to any of the parties. With these directions, the Writ Petition is disposed of. No costs. Consequently, connected W.M.P.(MD) No.7493 of 2019 is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar (CS)

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To

- 1) The Special District Revenue Officer,
(Land Acquisition- National Highways)
Office of the District Collector,
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- 2) The District Revenue Officer,
Sivagangai District,
Sivagangai.



3) The Project Director,
National Highways Authority of India,
Karaikudi,
Sivagangai District.

+1 CC to M/s.C.ARUL VADIVEL @SEKAR, Advocate (SR-79869[F] dated 06/08/2019)

+1 CC to M/s.P.KRISHNA VENI, Advocate (SR-79871[F] dated 06/08/2019

+1 CC to M/s.SPL GP (SR-79973[F] dated 06/08/2019)

Order made in
W.P. (MD) No.9512 of 2019
Dated: **05.08.2019**

JMN(31.12.2019) 5P : 7C